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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,883	01/16/2004	Kenneth R. Epstein	MB0001	8469

7590 03/17/2006

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EXAMINER

NEILS, PEGGY A

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,883

Applicant(s)

EPSTEIN, KENNETH R.

Examiner

Peggy A. Neils

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Arguments

Applicant's arguments, see Remarks, filed 1/6/2006, with respect to Claims 1-15 have been fully considered and are persuasive. Claims 1-15 are allowable, Claims 16 and 17 contain allowable subject matter and Claims 14 and 15 are being rejected based upon a new combination of references.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh in view of Kuo.

Hsueh shows an illuminated flower arrangement which include a pot 1, a plurality of optical fibers inserted into a top surface of the pot 1 and into a housing 41 containing a light source 41. As shown in figures 1 and 2, the decorative arrangement comprises flowers with a stem extending into the pot 1. The pot contains an open end and a closed end. Power is provided exterior to the pot with a plug also functioning as the switching mechanism. Claim 14 sets forth that the container is a vase and that the power source is within a chamber in a vase. The pot 1 is the functional equivalent of a vase. The choice of one or the other is an ornamental issue based upon the desired appearance for the flower arrangement. Kuo is cited for teaching that it is well known in

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the art to have an illuminated vase for a flower arrangement which includes a self-contained power source (see column 3, lines 8-11) with a switch 29. It would have been obvious to one skilled in the art that Hsueh could be modified to be battery operated and controlled by a switch in the same manner as taught by Kuo because both references are directed to providing an illuminated flower arrangement and the battery power source provides more mobility for the flower display.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsueh and Kuo as applied to claim 14 above, and further in view of Yang.

Hsueh does not identify the type of light source used with the decorative flower display. Yang teaches that it is known in the art to use LEDs when illuminating an artificial plant display. It would have been obvious to one skilled in the art that Hsueh could be modified to include an LED as the light source in the same manner as taught by Yang because LEDs generate low heat and operate more efficiently than conventional incandescent light bulbs and Yang provides for a similar decorative display as Hsueh.

Allowable Subject Matter

Claims 1-13 are allowed.

The following is an examiner's statement of reasons for allowance: Claims 1-13 are allowable over the prior art because Claim 1 set forth a flower display in a vase containing water with a waterproof housing submerged in the water containing a power source and a light source and at least one optical fiber extending from the housing to adjacent to or among a flower in the vase. This combination of limitations was not shown or suggested by the prior art.

Claims 16 and 17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

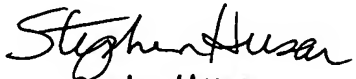
The following is a statement of reasons for the indication of allowable subject matter: Claims 16 and 17 are considered to have allowable subject matter because Claim 16 sets forth that the housing is partially submerged in water in the chamber in the vase. This combination of limitations was not shown or suggested by the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harris is cited of interest.

Any inquiry concerning this communication or earlier communications should be directed to Examiner Neils at (571) 272-2377 on a Monday or Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378.


Stephen Husar
Primary Examiner